



PLANNING COMMISSION STAFF REPORT SEPTEMBER 14, 2006

Project: VILLA D'ESTE- (PLN2006-00172)

Proposal: To consider a revision to previously approved Vesting Tentative Tract Map 7735, and Planned District Minor Amendment, for a new internal street connection in Planned District P-2005-80.

Recommendation: Approve, based on findings and subject to conditions

Location: Southeast corner of Ardenwood Boulevard and Paseo Padre Parkway in the Northern Plain Planning Area - APN 543-0439-130
(See aerial photo next page)

Area: 15.6-acre lot

People: John Laing Homes, Applicant
Mark Chamberlain, Agent of Applicant
Guzzardo Partnership, Ruggeri, Jensen, & Azar Associates, Woodley Architectural Group, Consultants
Leon Campbell, Pace Properties LLC, Owner
Scott Ruhland, Staff Planner (510) 494-4453, sruhland@ci.fremont.ca.us

Environmental Review: A Mitigated Negative Declaration has been prepared, circulated and approved for this project.

General Plan: Low Density Residential, 5-7 units per acre; Medium Density Residential, 15-18 units per acre; High Density Residential, 23-27 units per acre.

Zoning: Planned District, P-2005-80

EXECUTIVE SUMMARY:

The City Council approved PLN2006-00172, Planned District Major Amendment for Site Plan and Architectural Approval and Tentative Tract Map 7735 on May 23, 2006 for the subdivision and development of 276 residential units. During the City Council hearing discussion ensued regarding the possibility of a new internal street connection within the development. The Council directed the applicant to explore the feasibility of extending the street Via Lucca from Via Torino to Via Lugano. The applicant agreed to explore the feasibility of this site plan change and returned with a revised site design following this direction. However, this revision to the site plan has resulted in a minor impact to the site by a reduction of open space through the elimination of a small plaza with bench and fountain. The original Conditions of Approval for the project, as shown on Exhibit "C", are still applicable and no new conditions have been added.



Figure 1: Aerial Photo (2002) of Project Site and Surrounding Area.



[1 inch = 375 feet]

SURROUNDING LAND USES:

North: Vacant Land
 South: Single & Multi-Family Residential
 East: Vacant Land
 West: Single-Family Residential

BACKGROUND AND PREVIOUS ACTIONS:

A City-initiated General Plan Amendment and Rezoning, PLN2005-00080, was approved on July 26, 2005. The purpose of that action was to change the land use of the project site from commercial to residential to facilitate single & multi-family residential development as contemplated by the Housing Element Implementation Program. The rezoning changed the site from commercial to a Planned District with specific guidelines for the future development of the site.

A Planned District Major Amendment to P-2005-80 for site plan and architectural approval, and Vesting Tentative Tract Map 7735 were approved by City Council on May 23, 2006. Upon direction of the City Council, the applicant has revised the site plan to include a new internal street connection. This change to the site plan has resulted in the need for Planned District Minor Amendment and approval of a Revised Tentative Tract Map 7735.

PROJECT DESCRIPTION:

The proposed project is a request for a Planned District Minor Amendment to P-2005-80 and revised Tentative Tract Map 7735 upon direction of the City Council to extend and connect the street Via Lucca from Via Torino to Via Lugano within the site. The new street connection will improve vehicular circulation on site and improve the visual aesthetic by separating the mass of the multi-family buildings. The impact of the revision is a reduction of common open space through the elimination of a small plaza with bench and fountain. However, the project still meets the

PROJECT ANALYSIS:

Summary of Further Project Considerations:

- Improved on-site circulation and design – Vehicular and pedestrian circulation is enhanced by new street connection.
- Reduction of common open space – The revised design resulted in reduction of common open space for the project by approximately 4,300 square feet. However, the overall project still meets the common open space requirement by providing approximately 16,000 square feet where 12,400 square feet is required.

General Plan Conformance:

The existing General Plan land use designation for the project site is Low, Medium and High Density Residential, 5-7 units/acre, 15-18 units/acre and 23-27 units/acre. The proposed project is consistent with these General Plan land use designations for single and multi-family residential areas because it maintains the minimum density requirements for the site and complies with residential design and development policies.

- Low Density Residential, 5-7 units/acre – midpoint of 6.5 units x 5 acres = **33 units**
- Medium Density Residential, 15-18 units/acre – midpoint of 16.5 units x 5 acres = **83 units**
- High Density Residential, 23-27 units/acre – midpoint of 25 units x 5.6 acres = **140 units**
- **Total Units Required = 256 (276 Provided)**

The project remains in conformance with the General Plan because the total number of units has not changed through the revised site design.

Zoning Regulations:

As set forth in Article 27 of the Fremont Municipal Code (FMC), the proposed project is permitted in a Planned District subject to Site Plan and Architectural Approval. The existing site is zoned Planned District, P-2005-80, and contains specific regulations for the Planned District Amendment. The revised site design and improved circulation is consistent with the zoning for the site.

Design Analysis:

Site Planning:

A change to the site plan has occurred by extending the street Via Lucca from Via Torino to Via Lugano. This has improved circulation on site by creating a grid system for the internal streets. It also breaks up the monotony of buildings and garage doors along the street Via Lugano.

Open Space/Landscaping:

A reduction of common open space by approximately 4,300 square feet has resulted by extending the street connection. The buildings had to be slightly reconfigured which eliminated a small plaza area with bench and fountain. However, the overall project still meets the open space requirement by providing approximately 16,000 square feet where 12,400 square feet is required.

Circulation:

The street extension connects Via Torino to Via Lugano improving accessibility and circulation throughout the site.

Applicable Fees:

This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, park land in lieu, capital facilities and traffic impact. All applicable fees shall be calculated and paid at the fee rates in effect at the time of building permit issuance.

Environmental Review:

An Initial Study and Mitigated Negative Declaration have been prepared, circulated and was adopted for this project on May 23, 2006. The environmental analysis identified concerns regarding potential impacts to residents related to noise, water quality, and air quality and geologic hazards. The Mitigated Negative Declaration and associated Mitigation Monitoring Plan include mitigation measures which will reduce the identified impacts to non-significant levels. The revised site plan and tentative map resulted in only minor changes and previous environmental review and mitigation is still applicable.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 157 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on September 1, 2006. A Public Hearing Notice was published by The Argus on August 31, 2006.

ENCLOSURES:

Exhibits:

- Exhibit "A" Revised Precise Site Plan
- Exhibit "B" Revised Vesting Tentative Tract Map 7735

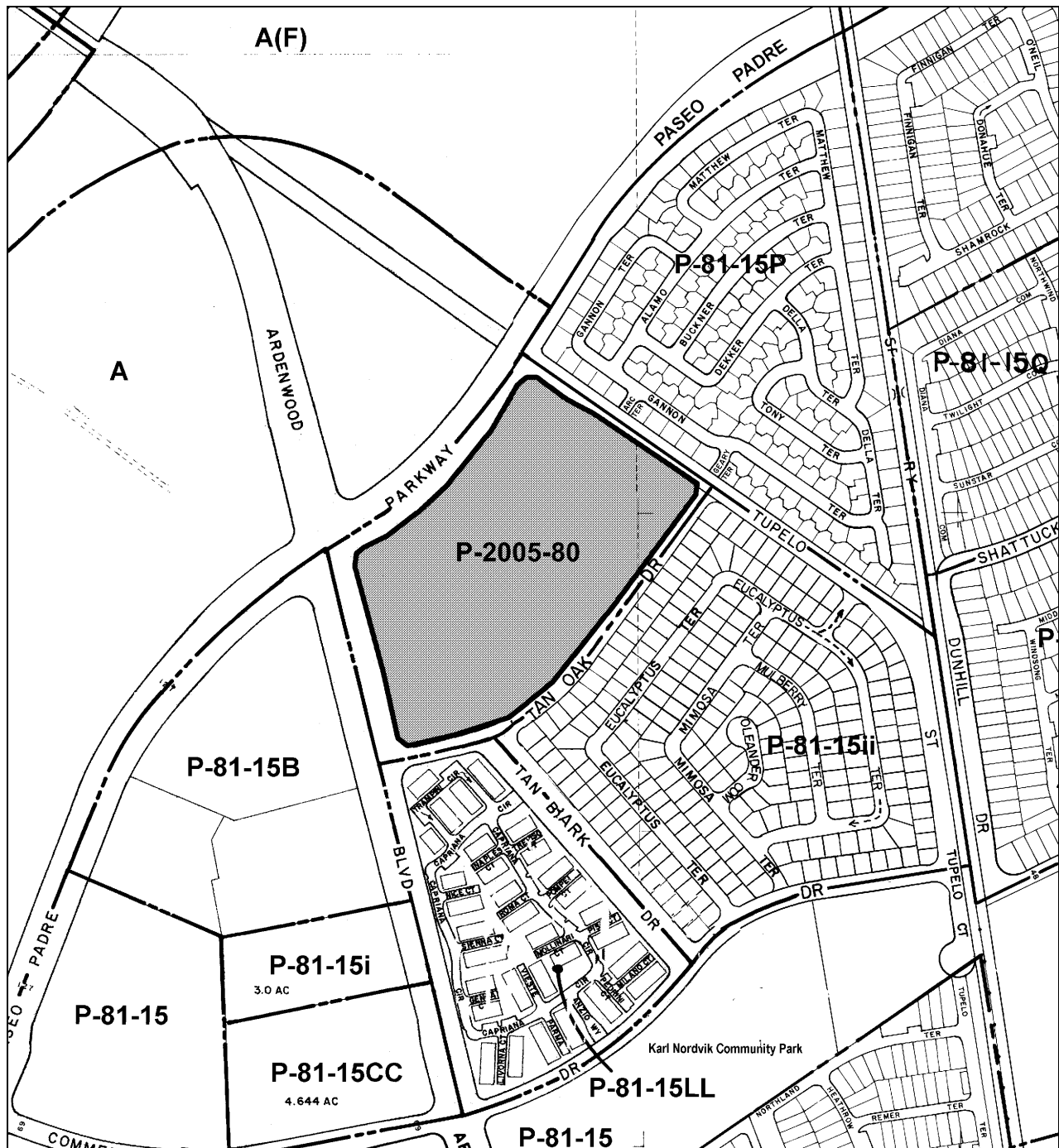
Informational:

- Exhibit "C" Original and Applicable Findings and Conditions of Approval

RECOMMENDATION:

1. Hold public hearing.
2. Find the previously approved Mitigated Negative Declaration and Mitigation Monitoring Plan adequately addresses the potential environmental impacts caused by the project and no further action is required.
3. Find Planned District Minor Amendment and Revised Tentative Tract Map 7735 are in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report.
4. Approve Planned District Minor Amendment, as shown on Revised Precise Site Plan Exhibit "A" and Revised Tentative Tract Map 7735 Exhibit "B", and subject to original findings and conditions on Exhibit "C".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan



INFORMATIONAL EXHIBIT "C"
Findings and Conditions of Approval for PLN2006-00172
Villa D'este - Ardenwood Boulevard - (Planned District)
As Approved by the City Council on June 6, 2006

PLANNED DISTRICT FINDINGS

The following findings are made by the City Council based on information in the staff report and testimony at the public hearing on May 23, 2006, incorporated hereby:

1. The proposed Planned ("P") District Amendment, or a given unit thereof, can be substantially completed within four years of a precise "P" district approval because the site is a size where construction of the project could be completed in a multi-phase development within the time frame specified.
2. That each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; that the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under another zoning district.
3. That the existing streets and thoroughfares and required on-site improvements are suitable and adequate to carry anticipated traffic, and anticipated future potential for site development will not generate traffic in such amounts as to overload the street network outside the "P" district because the site is suitable for the proposed use and minor street improvements will be installed to facilitate traffic movement. The on-site circulation and parking improvements can reasonably and adequately serve the residential development.
4. The exceptions to the PVAW and zoning standards, including the minimum lot size for the secondary units, are warranted by the incorporation of common open space with amenities such as a play structure, fountains and seating areas, and the community building; the use of high quality building materials; installation of varied pavement materials; and enhanced entry features.
5. That the "P" district is in conformance with the General Plan of the City of Fremont. The project conforms to the General Plan land use designations of Low, Medium and High Density Residential, 5-7, 15 to 18 and 23 to 27 dwelling units per acre by averaging density across the entire site and is consistent with and implements the goals and policies of the Land Use and Housing Chapters of the General Plan.

SPECIFIC P-2005-80 FINDINGS

6. The proposed architecture is superior quality and will enhance the visual qualities and complement the character of the area and be an attractive feature for Fremont and the Northern Plain Planning Area because the units are well designed, utilize various high quality materials and feature massing and articulation that highlight the positive qualities of the site.
7. The site plan has provided for pedestrian connections to nearby recreational and community services because a pedestrian circulation plan has been provided which coordinate internal circulation of the site with existing sidewalks.

8. Access is provided to minimize access to adjacent existing residential neighborhoods along Tupelo Street, Tan Oak Drive and adjacent thoroughfares because only two access points have been provided and they are lined up with existing streets.
9. The project provides twenty percent of the units as Inclusionary units as specified in Condition A-18.

VESTING TENTATIVE TRACT 7735 MAP FINDINGS

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance, because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards as stipulated in the Planned District (P-2005-80) zoning district.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan and any applicable specific plan, because the proposed development conforms to the requirements of the zoning district as well as the General Plan land use designations for the site including all relevant General Plan policies as enumerated in the staff report.
3. The site is physically suitable for the type and proposed density of the development because it is flat, located on two major arterials with transit availability and located on the edge of an urbanized area which has all utilities available.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because no habitat exists on site as determined by the Biological Assessment prepared for the project.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems because the environmental review process of the subdivision has taken those concerns into consideration and has found, with proper mitigation, all impacts would be less than significant.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. Acquisition of any new easements will be required prior to the acceptance of the Final Map for this project.

PRIVATE STREET FINDING

1. The most logical development of the land requires private street access because the physical character of the project is more amenable to the less intense right of way required of a private street.

PRELIMINARY GRADING PLAN FINDINGS

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, that substantially and/or negatively affects the site because the fill being added to the site will create positive drainage flows, not substantially altering the flat terrain.
2. The proposed project described in the application will not result in geologic or topographic instability on or near the site. There are no fault zones or evidence of slides on the site which might be aggravated by the grading of the site. Implementation of the recommendations by the project geotechnical and structural engineer will ensure building safety in regards to geologic hazards.
3. The proposed project described in the application will not endanger public sewers, storm drains, watercourses,

streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.

4. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of final map. Supplemental data and substantiation of conclusions may be required by the City Engineer upon city review of the reports. The proposed development is not located where there is evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.
5. The proposed project described in the application will not negatively impact the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont because appropriate mitigation has been incorporated into the project design to mitigate any significant impacts.

General Conditions

- A-1 The approval of PLN2006-00172 shall conform to Exhibit "A" (Preliminary/Precise Site Plan, Architectural Elevations, Floor Plans and Landscape Plans) Exhibit "B" (Vesting Tentative Tract Map 7735, Private Street and Preliminary Grading Plan), Exhibit "E" (Color and Material Sample Board) and all the conditions of approval set forth herein. This Planned District Amendment to P-2005-80 is subject to further review and approval by the City Council and entitles the construction of 276 residential units and eleven second units with associated site, open space, landscape and circulation improvements. The common open space/private park shall remain as permanent open space for the entire life of this project.
- A-2 Developer acknowledges that the development project upon which Vesting Tentative Map 7735 (VTM) is based is subject to Site Plan and Architectural Review (SPAR) by the City Council; and the City Council retains sole and absolute discretion to make any modifications to the proposed site plan and architecture, which may require modification of the VTM. If Council action on the SPAR requires modification of the VTM, if the developer and staff are not able to resolve such modifications, developer agrees that staff may refer the matter back to the Planning Commission for subsequent consideration of a modified VTM, and that the developer obtains no vested rights in the original VTM in such a situation.
- A-3 No exterior additions or modifications to the residences, including the addition of pre-manufactured sunrooms and, shall be permitted. Enclosure of the outdoor rooms/patios on the single family units may be permitted as long as the enclosure does not constitute habitable living space. This condition shall be incorporated into the CC&Rs for this project. Additionally, this condition shall be incorporated as a deed restriction for each lot within the development, subject to the review and approval of staff prior to the acceptance of the first Final Map for this project.
- A-4 Plans shall be submitted to the **Development Organization** for review and approval to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
- A-5 Minor modifications to the approved building designs, elevations and colors may be made, subject to review and approval of the Planning Director or his/her designee if such modifications are in keeping with the

architectural intent of the original approval. However, the Planning Director shall retain the authority to determine the level of review required, including Planning Commission and City Council review.

- A-6 The project shall be subject to all City-wide development impact fees. These fees will include, but are not limited to, fees for fire protection, parkland in lieu, park facilities, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance.
- A-7 Construction hours will be limited in accordance with Section 8-2205 of the Fremont Municipal Code, and notes to this effect shall be placed on the cover sheet of the construction plans and on an all-weather notice boards (format and content specified by City) conspicuously placed adjacent to the most visible right of way (two notices required) for the duration of the construction activity as follows:
- a. Monday-Friday, 7 a.m. to 7 p.m.
 - b. Saturday & Holiday, 9 a.m. to 6 p.m.
 - c. Sunday, no construction activity allowed
- A-8 Lighting associated with the project shall be subject to staff review and approval during the Development Organization review process, and shall be of a residential pedestrian scale and decorative in nature. Light standards shall be located throughout the project site subject to review and approval of the City of Fremont Police Department and Planning Division.
- A-9 Per the Mitigated Negative Declaration, PLN2006-00172, the applicant shall include the following mitigation measures into the project:
- **Mitigation Measure (MM) #1:** To mitigate the identified air quality impacts of grading and construction, dust suppression measures shall be incorporated into the project conditions of approval and construction drawings. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Stockpiles of sand, soil, and similar materials shall be covered with a tarp. Cover trucks hauling dirt or debris to avoid spillage. Paving shall be completed as soon as feasible to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be replanted to minimize the generation of dust. A person shall be designated a person to oversee the implementation of the dust control program.
 - **MM# 2:** A burrowing owl survey will be required by a professional wildlife biologist for biological resources of significance using the *Burrowing Owl Survey Protocol and Mitigation Guidelines*, 30 days prior to grading. If the protocol survey is completed no more than 30 days prior to grading/ground disturbance activity, no further surveying will be required. Otherwise, a separate pre-construction survey for burrowing owls is required no more than 30 days prior to any grading or ground disturbance to determine the presence of owls.
 - **MM#3:** No known significant historical, paleontological or archaeological resource, site structure or object has been identified either on the project site or in the general area of the project site. There are no known unique cultural resources, and therefore, no potential for restrictions. However, should any human remains or historical or unique archaeological resources be discovered during site development

work, the provisions of CEQA Guidelines, Section 15064.5.(e) and (f) will be followed to reduce impacts to a non-significant level.

- **MM #4:** Building plans submitted to the Development Organization for building permit review shall include the geotechnical recommendations from the Lowney Associates Geotechnical Investigation prepared for the project.
- **MM #5:** At the time of development each site must comply with standard water pollution and erosion control measures following Best Management Practices which will be implemented to prevent runoff and sedimentation from entering the channel. Emphasizing storm water Best Management Practices (BMP) intends to achieve compliance with the goals of the Alameda Countywide Clean Water Program (ACCWP), in conformance with the Federal National Pollutant Discharge Elimination System (NPDES) program established by the Clean Water Act.
- **MM#6:** The following measures shall be implemented to mitigate impacts from noise:
 - 1) The interior noise levels within all residential units due to exterior transportation sources (existing and future road traffic on Paseo Padre Parkway and Ardenwood Boulevard shall comply with the limits in Policy HS 8.1.1 of the City of Fremont Health & Safety General; specifically noise exposure levels of 45 dBA L_{dn} in all habitable rooms, and instantaneous noise levels of 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other habitable rooms. If the interior noise limits can only be met with the windows closed, mechanical ventilation meeting code ventilation requirements shall also be provided.
 - 2) A seven (7) foot high sound barrier shall be constructed along the northwestern property line of lot 1 to reduce noise impacts from Paseo Padre Parkway to the private yard area. The barrier may be constructed of a combination wall and landscape berm.
- **MM #7:** Hours of construction shall be limited to 7 a.m. to 7 p.m. Monday through Friday, and 9 a.m. to 7 p.m. Saturday. No construction shall be permitted on Sundays.
- **MM #8:** Based on the signal warrant analysis, the intersection of Paseo Padre Parkway/Tupelo Street should be signalized. With this improvement, the Paseo Padre Parkway/Tupelo Street intersection would operate at LOS A during both the AM and PM peak hours. Under signalized conditions, the existing 185 foot westbound left-turn pocket and the 100 foot northbound right-turn pocket would be adequate to handle the anticipated traffic demand.
- **MM #9:** Due to the close proximity of the new signal at Paseo Padre Parkway/Tupelo Street to adjacent traffic signals, a new signal interconnect is required between the intersections of Paseo Padre Parkway/Ardenwood Boulevard and Paseo Padre Parkway/Tupelo Street. The development of a signal timing plan should be implemented along Paseo Padre Parkway to coordinate the signals adjacent to the project frontage.

A-10 All mechanical and utility equipment, including any roof-mounted equipment, (i.e. air conditioning units or similar) shall be screened from view from adjacent public and private rights-of-way, on-site parking, and neighboring residential properties.

A-11 Final building design, colors and all building materials shall be consistent with Exhibit "B" (Preliminary

and Precise Site Plan, Floor Plans, Architectural Elevations, Landscape Plan) and Exhibit "E" (Color and Material Sample Board), subject to staff review and approval during Development Organization review.

- A-12 The final design, layout, and construction of the proposed development shall conform to the Security Ordinance, No. 2484, as amended, including a lighted street address and appropriate security measures, subject to the review and approval of staff during the Development Organization review process.
- A-13 Additional design elements and foundation landscaping shall be incorporated into the single-family unit side elevations subject to review and approval of staff during Development Organization review.
- A-14 The applicant shall notify Planning staff of the construction schedule. At the time of installation of framing and stucco/siding, the applicant or a representative of the applicant, shall request an on-site inspection by the project planner, to ensure compliance with the architectural detailing of all buildings.
- A-15 A Homeowners Association shall be created for this residential project. The developer shall prepare a set of comprehensive Covenants, Conditions and Restrictions (C,C&R's), subject to review and approval by the City of Fremont prior to Final Map approval.
- A-16 The Covenants, Conditions and Restrictions (C,C&R's) for the project shall stipulate that the multi-family unit garages be used for the parking of vehicles and that no other usage or storage within the garage shall prevent the parking of an owners vehicle.
- A-17 Pursuant to Article 21.7 [Inclusionary Housing] of the Fremont Municipal Code, the Property Owner(s) shall enter into a BMR Master Developer Agreement with the City to provide at least 20% of total number of residential units made available at affordable housing costs within the for-sale development. A total of 55 units in Villa D'este Planned District shall be available for participation in a below market rate (BMR) affordable housing program, subject to the review and approval of the Office of Housing and Redevelopment. The BMR units shall include 25 units of Plan 1 and 30 units of Plan 2. The BMR Master Developer Agreement shall run with the land, be recorded in conjunction with the Final Map, and made part of the project's conditions of approval and shall be recorded on the property titles of each parcel designated for the BMR sales program. The BMR Master Developer Agreement shall include the following provisions:
- BMR units shall be affordable to families earning no greater than 110% or below of the county median income as defined by the United States Department of Housing and Urban Development in effect at the time of sale;
 - Units shall only be available to eligible first time homebuyers as defined under the California Housing Finance Agency To the extent permitted by law, preference shall be given to those who currently live, work, or previously lived in the City of Fremont;
 - To insure long-term affordability, and to assist the greatest number of families over the longest feasible time, BMR units shall be subject to resale restrictions under individual agreements developed by the City of Fremont, which shall be binding for a minimum of 30 years, renewable upon resale;
 - The BMR sales price shall be computed as follows:

For a two bedroom unit, the sales price shall be computed based upon the maximum program restricted income for a family of three times a multiplier of 3.5, and for a three bedroom unit, the sales price shall

be computed based upon the maximum program restricted income for a family of four times a multiplier of 3.5.

- The City of Fremont Office of Housing and Redevelopment will conduct the Buyer Selection process and will provide eligible homebuyers to the Developer. The selection process will be described in the BMR Master Developer Agreement.

- A-18 All sound walls as required by the Mitigated Negative Declaration, and fencing as part of the project, are subject to further design review by staff during Development Organization review.
- A-19 Graffiti abatement shall be applied to the both sides of all sound walls within the project. Abatement shall consist of anti-graffiti coating and landscaping in the form of vines subject to the review and approval of staff during Development Organization review.
- A-20 A deed restriction shall be recorded for all lots with a secondary unit requiring owner-occupancy of the second unit.
- A-21 The project developer shall work with staff to incorporate additional green building techniques into the entire project to the extent feasible.

Landscape Conditions

- L-1 The proposed retention of the four Tamarisks at the corner of Ardenwood and Tan Oak shall be re-evaluated during Tract Improvement Plan Review. Any ensuing alterations to the landscape design at this corner shall be subject to the review and approval of the City Landscape Architect.
- L-2 Concrete planters in a Tuscan style shall be installed between garage doors as part of the garage planting "cut-outs." The concrete planters are subject to the review and approval during Tract Improvement Plan Review.
- L-3 The design and installation of the play equipment and play area in the common open space shall be in compliance with the California Code of Regulations, Title 22, Div. 4, Ch.4, Safety Regulations for Playgrounds.
- L-4 Branches from mature trees may not overhang buildings and roofs. Adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways:
 - a) Small trees (to 15 feet tall) no closer than 6 feet from building or 2 feet from paving, curbs, or walls with a minimum planting area 5 feet wide.
 - b) Medium trees (to 30 feet tall) no closer than 10 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide.
 - c) Large trees (above 30 feet tall) no closer than 15 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide, preferably 8 feet wide.
- L-5 All planting areas containing trees shall be free of all Utility Structures (including light standards) and other built features consistent with the spacing requirements of City Standard Detail Street Tree Clearances. In order to install all the trees shown on the Landscape Plan, utilities may require relocation subject to staff approval during Tract Improvement Plan Review.

- L-6 Landscape plans shall be submitted with Final Map Improvement Plans for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, and (3) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
- a) An underground irrigation plan.
 - b) A lighting plan for the illumination of the building, pedestrian and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
 - c) Construction details of raised planters, walkways, paths, benches, walls, fences, trellises, and other architectural features as appropriate to the project.
- L-7 The final Building Permit plans as approved through the Development Organization review process shall include, as reference, the Landscape Plans approved through Tract Improvement Plan Review.
- L-8 All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. Current copy of the LDRP available at the Engineering Counter shall prevail.
- L-9 All back-flow preventers shall be screened with landscaping.

Engineering Conditions

- E-1 The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
- E-2 All public and private storm drain inlets are to be stenciled "No Dumping - Drains to Bay" using thermoplastic stencils purchased from the City of Fremont Maintenance Division. Alternative inlet stencils or marking may be permitted, subject to City Engineer approval during final map and subdivision improvement plan checking.
- E-3 All on-site storm drains must be cleaned at least once a year immediately prior to the rainy season. Additional cleaning may be required by the City of Fremont.
- E-4 For air conditioning units, air conditioning condensate should be directed to landscaped areas or alternatively connected to the sanitary sewer system after obtaining permission from Union Sanitary District. Any anti-algal or descaling agents must be properly disposed of. Any air conditioning condensate that discharges to land without flowing to a storm drain may be subject to the requirements of the State Water Resources Control Board's (SWRCB) Statewide General Waste Discharge Requirements (WDRs) for Discharges to Land with a Low Threat to Water Quality.
- E-5 Roof drains shall discharge and drain away from the building foundation to an unpaved area wherever practicable.

- E-6 All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.
- E-7 The home owners association shall prepare and implement a plan for pavement sweeping and cleaning of all storm drain inlets consistent with Best Management Practices.
- E-8 The buildings, including foundations and utility connections, shall be designed in accordance with the project geotechnical report by TRC Lowney, dated 12/14/05, and the supplemental liquefaction hazard analysis dated 4/11/06.

TENTATIVE MAP & PRIVATE STREET CONDITIONS OF APPROVAL:

- E-10 The project shall conform to Exhibit “B” (Vesting Tentative Map 7735 & Private Streets), all conditions of approval set forth herein, and the conditions of approval of Planned District P-2005-80 and Planned District Major Amendment PLN2006-00172.
- E-11 Approval of this Vesting Tentative Map shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act.
- E-12 The final map and subdivision improvement plans shall be submitted to the Engineering Division for review to insure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
- E-14 The developer shall install complete street improvements to the centerline of Ardenwood Boulevard. Required street improvements include, but are not limited to: removing the existing sidewalk, installing new 6-foot wide sidewalk and landscaping, installing a new bus pad, installing new bicycle lane striping, removing the existing above ground transformers, and repair of any damaged, curb, gutter, sidewalk, or utilities. The extent of repair or replacement of existing Ardenwood Boulevard improvements shall be determined by the City Engineer & City Attorney during the review of the subdivision improvement plans.
- E-15 The developer shall install complete street improvements to the centerline of Paseo Padre Parkway. Required street improvements include, but are not limited to: removing the existing sidewalk, installing new 6-foot wide sidewalk and landscaping, and repair of any damaged, curb, gutter, sidewalk, or utilities. The extent of repair or replacement of existing Paseo Padre Parkway improvements shall be determined by the City Engineer during the review of the subdivision improvement plans.
- E-16 The developer shall install complete street improvements to the centerline of Tan Oak Drive. Required street improvements include, but are not limited to: removing the existing driveway, installing a new private street driveway, pavement repair (grind and overlay), landscaping, and repair of any damaged, curb, gutter, sidewalk, or utilities. The extent of repair or replacement of existing Tan Oak Drive improvements shall be determined by the City Engineer during the review of the subdivision improvement plans.
- E-17 The developer shall dedicate one-foot of street right-of-way and install complete street improvements to the centerline of Tupelo Street across the project frontage. Required street improvements include, but are not limited to: installing a new private street driveway, removing and/or relocating the existing underground and above-ground utilities, installation of a 5-foot wide sidewalk, pavement repair (grind and overlay), landscaping, and repair of any damaged curb, gutter, sidewalk, or utilities. The extent of repair,

replacement, or relocation of existing Tupelo Street improvements shall be determined by the City Engineer during the review of the subdivision improvement plans.

- E-18 The developer shall modify the existing intersection of Ardenwood Boulevard and Tan Oak Drive along the project frontage. The required improvements include, but are not limited to: removing the existing raised, right-turn island, removing the existing curb and gutter, installing new curb, gutter, and transition taper at the intersection, modifying the crosswalk, and replacing or relocating the existing street lights and utilities.
- E-19 The developer shall complete the installation of a traffic signal at the intersection of Paseo Padre Parkway and Tupelo Street. The developer shall receive a partial reimbursement for the construction cost of the traffic signal. Reimbursement shall be from the Local Improvement District 25 and from Traffic Impact Fee credit. The reimbursement amount shall be determined prior to final map approval.
- E-20 The streetlight plan and joint trench plan shall be submitted by the applicant with the first subdivision plan check for the street improvement plans and final map. The final streetlight plan and joint trench plan shall be completed prior to final map approval.
- E-21 The developer shall request P.G.&E. to commence with the design of the utility underground work for the proposed development after the Planning Commissions approval of Tentative Tract Map 7735.
- E-22 The subdivision improvement plans, including utility plans, shall be designed in accordance with the project geotechnical report by TRC Lowney, dated 12/14/06, and the supplemental liquefaction hazard analysis dated 4/11/06
- E-23 The CC&Rs for the project shall include a disclosure statement to all property owners indicating that the project site is located within a seismic hazard zone for liquefaction. The disclosure statement shall indicate that the buildings have been designed to current code requirements and that the foundation is designed to resist approximately 2.5 inches of differential settlement. The disclosure statement shall also indicate that the buildings, site improvements, and utilities are subject to damage during an earthquake and that the buildings may be uninhabitable after an earthquake. This CC&R disclosure statement is subject to review and approval of the City Engineer prior to final map approval.
- E-24 The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES permit requirements issued by the State's Water Quality Control Board.
- E-25 In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831, the property owners shall enter into a maintenance agreement for the long-term operation and maintenance of stormwater treatment measures. The agreement shall run with the land and be recorded at the same time that the final map is recorded.
- E-25 The subdivision storm water treatment plan shall be revised to comply with the Alameda Countywide NPDES Municipal Stormwater Permit, Section C.3.d, Numeric Sizing Criteria For Pollutant Removal Treatment Systems. In order to comply, the project may have to incorporate additional storm water treatment control best management practices, which may result in minor modifications to the site plan, grading plan, and drainage plan. The subdivision storm water treatment plan, storm water pollution prevention plan (SWPPP), and the associated storm water treatment calculations are subject to review and approval of the City Engineer. The plans and calculations may be referred to a City-selected peer review consultant. Peer review fees shall be paid by the subdivider.

- E-26 Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
- E-27 Pursuant to Government Code Section 66474.9, the Subdivider, or any agent thereof, or successor thereto, shall defend, indemnify, and hold harmless the City of Fremont, its officials, employees or agents (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.
- E-29 Any development on the newly created lots will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities, park facilities, and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. The fees will be collected prior to building permit issuance.
- E-30 All new utility service connections, including electrical and communications, shall be installed underground. Electrical transformers shall be installed in underground vaults within an appropriate utility easement or public service easement.
- E-31 The project storm drain system shall conform to City standards and shall be subject to review and approval of the City Engineer and the Alameda County Flood Control and Water Conservation District. The project storm drain system shall be designed to limit the post-development runoff to be equal or less than the pre-development runoff, for the design storm event.
- E-32 The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
- E-33 The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
- E-34 This Private Street (PLN2006-00172) is being conditionally approved based on the accuracy of the information shown on Exhibit "B" and submitted with the Private Street application. If any of the information is shown to be inaccurate subsequent to approval of the Private Street by the City, such inaccuracy may be cause for invalidating this approval. Approval of Private Street (PLN2006-00172) shall become effective upon final map approval.
- E-35 The private street names are subject to modification prior to final map approval.
- E-36 A Private Vehicle Access Way (PVAW) and a Public Utility Easement (PUE) are to be established over the entire private street right-of-way. The PUE dedication statement on the final map is to recite that the PUE is available for, but not limited to, the installation, access and maintenance of sanitary and storm sewers, water, electrical and communication facilities.
- E-37 Access considerations for the on-site circulation system require space to be reserved for the movement of fire-fighting and emergency vehicles for the protection of both private property and the public. Dedication of emergency vehicle access easements (EVAE) on the final map over the private street right-of-way will be required. The easement geometry shall be subject to the approval of the City Engineer.

- E-38 Fire hydrants are to be located along the private street as determined by the Fremont Fire Department.
- E-39 Deed restrictions are to be recorded concurrently with the final map to create a mandatory Home Owner's Association or any other mechanism acceptable to the City for those lots with private street frontage which is to covenant and be responsible for the following:
- a. Maintenance of the facilities in the private street which are not maintained by a public utility agency, except all utility work resulting from backfill failure is to be the responsibility of the Home Owner's Association.
 - b. Payment of the water and private street lighting (maintenance and energy) bills.
 - c. Maintenance, repair, replacement and removal of blockages in all building sewers. Maintenance of the building sewers includes repair of any trench failures and/or trench surface material failures.
 - d. Maintenance and "knock-down" repair of fire hydrants and water facilities along the private street is to be done by the utility agency at the expense of the Home Owner's Association. The Home Owner's Association is to be responsible for repainting any fire hydrants along the private street.
- E-40 Each buyer is to sign an acknowledgment that he/she has read the constitution and bylaws of the Home Owner's Association and the conditions, covenants and restrictions applying to the development.
- E-41 Private street grading and drainage shall be done according to public street standards, subject to review and approval by the City Engineer prior to final map approval.
- E-42 Pursuant to FMC Section 8-1522 and 8-3107, the subdivider is to improve prior to final map approval or agree to improve within one year of final map approval, the private streets within the subdivision. No permanent improvement work is to commence until improvement plans and profiles have been approved by the City Engineer. Improvements are to be installed to permanent line and grade in accordance with the City's subdivision improvement standards and to the satisfaction of the City Engineer. Improvements to be constructed include, but are not limited to: Curb and gutter, driveways, street paving, private street monuments, electroliers (wired underground), drainage facilities, signs, and fire hydrants.
- E-43 The private street pavement shall be designed on the basis of a traffic index using predicted traffic generation and a thirty-year pavement design life. In no case shall the traffic index be less than 5.5. Asphalt concrete surfacing to be treated with a seal coat of the type and amount required by the City Engineer. Pavement design sections shall be subject to approval of the City Engineer.
- E-44 Safety lighting is to be provided on the private street. Lights shall utilize "vandal resistant" enclosures and shall have sufficient power and spacing to provide an average maintained foot-candle level of 0.12.
- E-45 A signpost, to which is attached a sign having an area of at least fifteen inches by twenty-one inches, is to be installed at or near the private street entrance. The name of the private street is to be placed on this sign in clearly legible four-inch letters. The sign is to have painted, in at least one-inch letters, "Private Property. Not dedicated for public use."

SUBDIVIDER PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

PRELIMINARY GRADING PLAN CONDITIONS OF APPROVAL:

- E-46 The project shall conform with Exhibit "B" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Vesting Tentative Map 7735, PLN2006-00172.
- E-47 Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
- E-48 Approval of this Preliminary Grading Plan shall run concurrent with the approval and subsequent extensions of Vesting Tentative Tract Map 7735. Approval of this Preliminary Grading Plan shall terminate upon the expiration of Vesting Tentative Tract Map 7735.
- E-49 A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
- E-50 The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer. An erosion and sediment control plan shall be included as part of the grading plans.
- E-51 Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
- E-52 A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
- E-53 Prior to issuance of a grading permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
- E-54 The applicant shall submit a detailed soils report, including recommendations regarding pavement structural sections, prepared by a qualified soils engineer registered by the State of California. The soils report shall include specific recommendations for on site pavement areas that will experience repeated exposure to heavy vehicle loads.
- E-55 Grading operations shall be in accordance with recommendations contained in the required soils report and shall be supervised by an engineer registered in the State of California to do such work.

- E-56 Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.

Fire Department Conditions

- F-1 The applicant shall meet all requirements in the 2001 California Fire Code and local Ordinance #2485.
- F-2 Provide fire flow information for site. Contact Jose Rodriguez with the Alameda County Water District at 510-668-4419 to obtain information.
- F-3 The applicant shall install a N.F.P.A. 13-D/13-R fire sprinkler and NFPA 72 fire alarm system complying with local amendments.
- F-4 Automatic fire suppression systems in attached residential occupancies shall have Residential or quick response standard sprinkler heads in dwelling or guest portions of the building. The sprinkler system shall provide protection to at least all of the following areas garages, carports, bathrooms, concealed spaces, water heater/furnace rooms, closets, laundry rooms, attic spaces, under walks, or overhangs, balconies or deck greater than four feet in depth, and floor landings if wholly or partial enclosed, or other areas as required. If the guest carports are covered they shall have fire sprinkler protection.
- F-5 Separate permit is required for the underground fire service, fire sprinkler and fire alarm systems.
- F-6 Prior to installation, plans and specifications for the underground fire service line must be submitted to the Fremont Fire Authority and Building Department for review and approval. Please include cathodic protection or soils report stating why protection is not required. Standard Required: N.F.P.A. 24 and local Ordinance # 2485.
- F-7 The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.
- F-8 The applicant shall provide a 20 ft wide all weather surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed. CFC 901.3, C.F.C 903.2. and C.F.C 903.3
- F-9 The applicant shall provide the fire hydrant required fire flow on site prior to construction or storage of combustible materials. C.F.C 903.2 & Appendix IIIA. Fire hydrant jumper lines must be at least 6 inches in diameter. This must be completed and inspected before any construction or material storage will be allowed.
- F-10 The applicant shall have a key box (Knox brand) located outside of buildings/gates and provide keys to the Fire Department so they may gain access. Applications can be obtained at Fire Administration office, 3300 Capital Ave, Fremont.
- F-11 Address must always be visible from Public Street. Provide site map at private driveway entrance.
- F-12 A Fire Department driveway access serving dwelling/structures 35 ft or less in height shall have a minimum 20 foot unobstructed linear width. A Fire Department driveway access serving dwelling/structures over 35 ft in height shall have a minimum 26 foot unobstructed linear width. These driveways/access roads shall be

designated as Fire Lanes. Driveway /access roads and shall meet Fire Department standards for surface type, distance, weight loads, turn radius, grades, and vertical clearance. Approved turnarounds shall be required for distances over 150 feet from public streets. Other mitigation's shall/may be required in addition to those listed. (CFC Sec. 902.2 as amended) The applicant shall indicate on all site plans the location of required red curbs, curb lettering and fire lane signs. This project requires all curbs to be red, lettering every 30 feet and signs every 100 feet.

- F-13 Fire Department Connections for all sprinkler system must be located not more than 100 feet from a fire hydrant. N.F.P.A 14. All inlets shall have Knox type caps and signs/address placards installed at the connection.
- F-14 Fire hydrant spacing requirement is 300 feet spacing. The distance is measured as the fire engine travels on all- weather surfaces. Install one fire hydrant near the intersection of Via Cinque Terre and Court 'A'.

HAZARDOUS MATERIALS UNIT:

- F-15 The applicant shall comply with the provisions of the permits required from any state or regional agencies, including, but not limited to, the Bay Area Air Quality Management District (BAAQMD), Regional Water Quality Control Board (RWQCB), Union Sanitary District's (USD) POTW and the Alameda County Department of Environmental Health.
- F-16 The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.